

# **EXHIBIT I**

**Interview Questions to ask Eli Mistovich regarding his hiring process  
For Trackmen –March 2004.**

Review of applicants for the Trackman positions and the decision to interview certain candidates.

Meeting held March 26<sup>th</sup> @ 1:30 in the Engineering Conference Room – 1<sup>st</sup> floor Cobble Hill. Present: Steve Nevero, Steve Urban, Eli Mistovich, and Elizabeth Bowden.

Statement from E. Bowden indicating that MBCR is an equal opportunity employer as indicated in the policy signed by our General Manager in August 2003. The reason for the meeting is a report by the Recruiter – Alison Leaton that Eli Mistovich was eliminating qualified applicants because of their name and their home address as indicated on their resume (under the assumption that they were black).

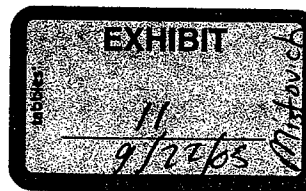
As a result of interviews conducted on March 4<sup>th</sup> and 5<sup>th</sup>, 2004 there was a need to consider additional applicants for the open Trackman positions. During a meeting on March 5<sup>th</sup> between Eli and Alison a qualified resume previously accepted by the Alison and passed over by Eli was represented for consideration. It was at this time that Eli indicated he did not want to interview this person as he had trouble with "people like that" in the past.

When asked about this on March 26<sup>th</sup> by E. Bowden his first response was that that was true and he had records to validate his statement.

When challenged on this Eli indicated that he had lots of experience in selecting applicants and that his goal was to select the "best or above average candidates" Eli appeared "put out" as he outlined that his comments to the recruiter were he thought "in confidence"

This was agreed to as an acceptable goal – but the issue was the interview consideration process – given that the candidate in question met the qualification requirements. Eli was advised that statements that are contradictory to MBCR policy and in this case a violation of legislation is not "in confidence" and as a manager nothing we say is "off the record" In addition, it would have been a violation for the recruiter not to report it and MBCR not to follow up and investigate.

Eli then indicated that he had interviewed a minority candidate believed one was now hired – so what was the issue? He was advised that the issue was it was the recruiter that insisted this person be considered and in essence "forced" Eli to consider this applicant.



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**Questions:**

1. How did you select the candidates for interviews? How many resumes did you receive and review?

I sent approximately 60 resumes to Alison the recruiter and was going to interview all of them. She said that was too many and to "cull" it down based on the specifics of the requirements – selecting the CDL and other related certifications. There were approximately 15 applicants and a couple of extras provided by senior MBCR and/or MBTA staff.

2. How many candidates did you interview? How many minority candidates were interviewed?

The interview process for these openings was ongoing with the first wave of interview not identifying enough qualified applicants to fill the approved requisition so the discussion on March 5<sup>th</sup> was to identify other potential applicants – all together approximately 15 people we interviewed – 1 or 2 minority candidates.

3. We have been advised that you would not interview certain applicants because of their name and their address – the discussion was that you assumed they were black (minority?). What is your response to this?

I always select the best or above average candidates.

This was not challenged – the point of who got selected for interviews was. Eli would not respond beyond this comment.

As Eli was not providing any information – E. Bowden stated that in the absence of comment from Eli the information from the recruiter was considered accurate and without objection. Eli stated – it sounds like you've already made up your mind. E. Bowden restated that no conclusions have been formed – that is the purpose of this meeting.

Eli chose not to add anything more to the comment and not clarify any points.

M-0010

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4. You were questioned directly by the recruiter – that the reason you would not interview certain applicants was because of their name and address. Your response was that you had more problems with people like that. What did you mean by this statement?

No further comment be added after the original statement indicating he had in fact had problems.

Eli stated that during the hiring requirements at his previous employer he always exceeded the required numbers. (This cannot be validated by MBCR.)

5. You were then advised that it is illegal to not interview someone because you think they are black. What is your response to this?

Eli advised he could not remember the exact content of the meeting.

When pressed on this given that this type of statement was not the norm for business conversation – Eli responded that we would have to ask the recruiter what it meant.

Eli was advised that that had been done and that it was in response to him refusing to select a qualified applicant for interview based on the name and address – Eli added no other comment.

6. When pressed to interview a diversity candidate the recruiter advised you "it was not about hiring a black person that was not qualified – but if he is I will push really hard." (A.L.) You responded "I can't win this conversation so I'm not going to argue." (E.M.) What did you mean by this statement?

No comment by Eli.

Upon Conclusion all were asked for questions closing comments;  
Eli – none, Steve U. – none, Steve N. – of the number interviewed how many had CDL?

M-0011

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**Interviewer Bowden Observations:**

Eli attempted to redirect the conversation a number of times – by suggesting that we needed to ask the recruiter (Alison) what was meant. This had been anticipated and had been done – when informed of this each time Eli had no further comment.

At one point I indicated it appeared he was “stone-walling” he attempted to turn this by indicating that if we wanted to talk about stone walling we should talk about him not getting answers to benefits questions he had. He was advised that this was not the time or place to have a conversation about benefits and if he wanted to take this offline – I would be pleased to do so and that it did not require the participation of the two Steve’s.

At no point did Eli indicate that he was not biased in his hiring practices and did not deny the overall circumstances of the meeting and its content – when pressed on the issues he opted to say nothing.

M-0012